

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Arbitration – Full and final settlement of Arbitration Award dt. 26-07-1996 with Sri S. Venkateswara Rao, Contractor for an amount of Rs.1,15,000/- the work relating to Construction of Check dam across Kothula vagu at the off take supply channel of East tank of Velvadam Village, Mylavaram Mandal, in Krishna District, awarded vide Agt.No.46 SE/88-89, dt. 15-07-1988 - Sanctioned – Orders – Issued.

G.O.Ms. No. 107

Dated 19th October, 2010.

Read the following:-

1. From the CE, Min.Irrgn., Hyd., Lr.No.DCE.II-OT4-SOI-Kothulavagu-Arbitration, Krishna-08, dt.17.09.08.
2. Govt.Memo.No.27917/ARB./2008, dated 26-12-2008.
3. From the ENC(I), Hyd., Lr.No.ENC(I)/DCE(GDS)/OT.2/AEE2/ ARB/Check Dam across Kothulavagu/2008, dated 20.03.09.
4. From Sri S.Venkateswara Rao, Contractor, repn.dt.12-05-09.
5. From the ENC(I), Hyd., Lr.No.ENC(I)/DCE(GDS)/ OT.2/ AEE2/ARB/ Check Dam a/c Kothulavagu/2008, dt.23-02-09 & dt 23-03-2010.

ORDER:

The Chief Engineer, Minor Irrigation, Hyderabad, in his letter first read above has stated that the work relating to "Construction of check dam across Kothulavagu at the off take supply channel of East Tank of Velvadam Village, Mylavaram Mandal, Krishna District was entrusted to M/s S. Venkateswara Rao, Contractor under Agt.No.46/SE/88-89 dt.15.7.1988". The said work has to be completed within three months ie. by 28-09-1988. Even after the extension of time in three times, the Contractor has not completed even 50% of work. Finally, the concerned Executive Engineer, has recommended the case to the Superintending Engineer, Irrigation Circle, Vijayawada to determine the Contractor duly forfeiting the EMD and FSD available with the Department. The Executive Engineer, has determined the contract and requested the then Superintending Engineer to ratify the action in determination of contract as the work is completely stopped. The action of Executive Engineer was not ratified by the then Superintending Engineer. Aggrieved by this, the Contractor has approached the Prl. Senior Civil Judge Court, Vijayawada for appointment of Sole Arbitrator to dissolve the disputes and the said court has appointed Sole Arbitrator. After hearing both sides, the Arbitrator passed award on 26-07-1996. Aggrieved by the said award on OP.No.87/96 was filed by the Dept. in the above said Court to set aside the award passed by the Sole Arbitrator. The Contractor has also filed I.A. No.6831/96 to pass decree in terms of award. The Contractor has also filed interim appeals vide IA. No.7749/96 seeking part payment of claim for the value of work done. The court has directed to make payment of Rs.52,854/- and given decree on the suit for Rs.2,94,771/- including the amount of Rs.52,854/- already paid through the court by making the award as rule of court and dismissed the OP.No.87/96 filed by the Department, on 18.04.2002 Aggrieved by the common order dt.18-04-2002, the Dept. has filed CMA No.3561/2003 and CRP No.1233/03 in the Hon'ble High Court. In the mean time, the Contractor has filed E.P.No.157/02 for payment of decree amount of Rs.2,94,771/- together with interest at 21% from the date of suit i.e. 7.4.1994 till the date of realization. Accordingly, the decree for Rs.6,88,731/- is passed by the Hon'ble High Court on 21-05-2003 in E.P.No.157/02 of OS. No.169/94. As the matter stood thus, the Hon'ble High Court in its common judgment dt.14.11.2007 in CMA.No.3561/03 and CRP No.1233/03 filed by the Department, has directed for conciliation. The Chief Engineer, Minor Irrigation, Hyderabad, has therefore, requested to place the matter before the committee.

2. In the Govt.Memo. second read above, the case has been referred to the Conciliation Committee for Andhra Region for amicable settlement.

P.T.O

3. The Engineer-in-Chief (I), Hyderabad in the reference third read above, has informed that the Conciliation Committee has discussed the issue in detail with the concerned and has stated that since there is no consent reached on the rate of interest between both the parties, and it has been decided to refer back the matter to the Principal Secretary to Government, for conciliation with the Contractor. In Government Letter dated.05-05-2009, the Contractor has been requested to attend before the Principal Secretary for Conciliation. In the said conciliation meeting, the contractor has agreed and given his consent to restrict the rate of simple interest to 9% on the Awarded amount and the matter has again referred to the Conciliation Committee for amicable settlement.

4. The Engineer-in-Chief (I), Hyderabad, in the reference last read above has furnished the minutes of the Conciliation Committee meeting held on 04.02.2010 wherein he has stated that discussions were held with the plaintiff, and arrived at an amount of Rs.1,34,104/- as full and final settlement of the case and, obtained the notarized declaration from the contractor to that effect.

5. In compliance with the common Judgment of the Hon'ble High Court, dated 14.11.2007 in CMA.No.3561/03 and CRP No.1233/03, the Principal Secretary to Government has conducted final conciliation with Sri S.Venkateswara Rao, Contractor & Managing Partner of M/s.S. Venkateswara Rao on 22.03.2010 and the Contractor has agreed for an amount of Rs.1,15,000/- as full and final settlement of the Arbitration Award dated 26-07-1996. Accordingly, the Contractor has given a notarised declaration declaring that he has expressed his acceptance for receiving a balance payment of Rs.1,15,000/- (Rupees one lakh fifteen thousand only) from the Government of A.P. as a full and final settlement of all his claims and withdraw all legal proceedings in the Hon'ble Court & other Courts in respect of the subject work after realization.

6. Government after careful examination of the matter, hereby accord sanction for an amount of Rs.1,15,000/- (Rupees one lakh fifteen thousands only) towards payment of full and final settlement of the Arbitration Award dt.26-07-1996 in respect of the work relating to Construction of Check dam across Kothula vagu at the off take supply channel of East tank of Velvadam (V), Mylavaram (M), awarded vide Agt.No.46 SE/88-89, dated 15-07-1988.

7. The above sanctioned amount shall be debited to the following head of account:

**"4702 COL on M.I. MH – 101 – Surface water GH – 11 Normal
State Plan SH (12) Construction and Restoration of MI Schemes
– 530 Major Works – 531 Other Expenditure."**

8. The Chief Engineer, Minor Irrigation, Hyderabad is directed to arrange to pay the above sanctioned amount to Sri S. Venkateswara Rao, Contractor, duly deducting the amounts that are recoverable on whatsoever account.

9. This order issues with the concurrence of Finance(Exp.PW.I) Department vide their U.O.No.024526/832/Expr.PW/A1/10,dated.17-09-2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.TUCKER
PRL.SECRETARY TO GOVERNMENT

To

The Chief Engineer, Minor Irrigation, I & CAD Dept., Erramanzil, Hyderabad.
The Director of Works & Accounts, A.P., Hyderabad.

Sri S.Venkateswara Rao, Contractor, S/o.Sri Subbaiah, K.Tadepalli Post, (Via)
Kamakoti Nagar, Vijayawada – 12, Krishna District.

::3::

Copy to:
The Finance (W&P) Department.
The I & CAD (P&B) Department.
The Accountant General, A.P., Hyderabad.
The Government Pleader for Arbitration, High Court of A.P.,
High Court Buildings, Hyderabad.
S.F/ S.Cs.

//Forwarded::Byorder//

SECTION OFFICER